

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST:

MARK M. BENSON, M.D.,	FINAL DECISION AND ORDER
RESPONDENT	LS0111141MED

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**01 MED 121**

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Mark M. Benson, M.D.  
  
14700 w. National Avenue  
  
New Berlin, WI 53151

Wisconsin Medical Examining Board  
  
P.O. Box 8935  
  
Madison, WI 53708-8935

Department of Regulation and Licensing  
  
Division of Enforcement  
  
P.O. Box 8935  
  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Mark M. Benson (D.O.B. 12/26/52) is duly licensed and registered in the state of Wisconsin to practice medicine and surgery (license # 22601). This license was first granted on July 19, 1979. Dr. Benson engages in orthopedic medicine.
2. Respondent’s latest address on file with the Department of Regulation and Licensing is 14700 W. National Avenue, New Berlin, WI 53151.
3. Respondent is the subject of prior impaired practitioner orders entered in case 93 MED 519 on July 24, 1996, and in case. 99 MED 212 on July 19, 2000. Among other things the Orders require Respondent to abstain from all use of controlled substances except when necessitated by a legitimate medical condition, and then only with the prior approval of the Supervising Health Care Provider.
4. On October 4, 2001, Respondent was convicted in Waukesha County Circuit Court Case 01 CM 0877 of a violation of Wis. Stats. sec. 450.11(7)(A) of attempting to obtain a prescription drug (Ambien®) by fraud. Respondent admits that he took a prescription blank from another physician and issued a false prescription order for Ambien® on August 8, 2000. Respondent also admits that on another occasion he telephoned a prescription

order to a pharmacy using another physician's name.

#### CONCLUSIONS OF LAW

5. The Wisconsin Medical Examining Board has jurisdiction in this case pursuant to sec. 448.02(3) Wis. Stats.
6. The Wisconsin Medical Examining Board has the authority to resolve this case by Stipulation without an evidentiary hearing pursuant to sec. 227.44(5) Wis. Stats.
7. The conduct described in paragraph 4, above, was in violation of sec. 448.02(3) Wis. Stats. and Wis. Adm. Code sec. MED 10.02(2)(a), (b), (h), (m) and (p).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The Stipulation of the parties is approved.
2. Mark M. Benson, M.D. (license 22601) is REPRIMANDED.
3. The license of Respondent to practice as a physician and surgeon in the state of Wisconsin is LIMITED as follows:
  - a. Respondent shall certify to the Board the successful completion of an educational intervention program of twenty hours entitled *Professional Renewal in Medicine Through Ethics*, offered by the University of Medicine and Dentistry of New Jersey, within six months of the date of this order. Respondent will be responsible for obtaining the required course pre-approval from the Medical Examining Board or its designee. Respondent shall be responsible for all costs of the completion of the required training. Within 60 days of completion of the required training Respondent shall submit an affidavit to the Wisconsin Medical Examining Board affirming that he has completed the educational requirement of this Order. The affidavit shall be supported by a certificate of attendance and completion issued by the course sponsor. The affidavit and supporting documentation will be filed with the Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935.
  - b. Upon completion of the training required by this Order, Respondent will appear before the Medical Examining Board, if so requested by the Board, to assure compliance with the terms of this Final Decision and Order.
4. Respondent shall, within 60 days of the date of this Order pay the costs of investigation and prosecution of this action in the sum o